

<p>SUPERIOR COURT OF CALIFORNIA, COUNTY OF AMADOR 500 ARGONAUT LANE, JACKSON, CA 95642 (209) 257-2600</p> <p><u>THE PEOPLE OF THE STATE OF CALIFORNIA,</u> Plaintiff,</p> <p>vs.</p> <hr/> Defendant.	CLERK'S USE ONLY
FELONY WAIVER & PLEA FORM	CASE NO:

Fill out this form if you wish to plead guilty or no contest to the charges against you. Initial/complete each applicable item *only* if you understand it. If you have any questions about your case, the possible sentence, or the information on this form, ask your lawyer or the judge.

- 1. NATURE OF CHARGES** (*In Re Tahl* (1969) 1 Cal.3d 122):
- A. Charges: (set forth all charges, enhancements, special allegations, prior convictions and probation violations, which will be subject to a plea)

- B. Proposed Disposition:

- C. I understand the nature of the above-referenced crimes; that is, what is required by law for a person to be guilty. Specifically, I understand the elements of all the charges and the possible defenses.

_____ initials

2. CONSTITUTIONAL RIGHTS AND WAIVERS

By personally writing YES in the boxes below, I understand the following rights and facts. I expressly give up and waive each right knowingly, intelligently, and voluntarily as each applies to the charges, enhancements, special allegations, prior convictions, and probation violations alleged. (*People v. Mosby* (2004) 33 Cal.4th 353; *People v. Sumstine* (1984) 36 Cal.3d 909.)

DEFENDANT TO PERSONALLY WRITE YES OR NO IN EACH BOX:

	I UNDERSTAND THIS RIGHT	I GIVE UP THIS RIGHT
1. Right to a speedy and public trial by jury	<input type="checkbox"/>	<input type="checkbox"/>
2. Right to confront and cross examine all witnesses against me	<input type="checkbox"/>	<input type="checkbox"/>
3. Right to remain silent and not incriminate myself (unless I choose to testify in my own behalf)	<input type="checkbox"/>	<input type="checkbox"/>
4. Right to subpoena witnesses and produce evidence	<input type="checkbox"/>	<input type="checkbox"/>
5. Right to be represented by an attorney at all stages of the proceedings and to have the court appoint one if I cannot afford my own	<input type="checkbox"/>	<input type="checkbox"/>
6. I do not have the right to a jury trial on charges of violating probation, although I do have the right to a hearing before a judge	<input type="checkbox"/>	<input type="checkbox"/>
7. (If prior to preliminary hearing) Right to a preliminary hearing to determine if there is probable cause to hold me for trial	<input type="checkbox"/>	<input type="checkbox"/>

A. I understand that by pleading guilty I am giving up my right to a jury trial. _____
initials

B. I understand that because I am not going to trial, I am giving up my right to confrontation of witnesses (i.e. my right to see, hear, and have my attorney question all witnesses who might have been called to testify) and my right to subpoena witnesses and produce evidence on my behalf. _____
initials

C. I understand by pleading guilty, I am giving up my right to remain silent and to require the District Attorney to prove the case against me. In other words, I am admitting my guilt of the crime(s) charged. _____
initials

D. I understand *People v. West* (1970) 3 Cal.3d 595 is a case that allows me to plead guilty or no contest, for valid tactical reasons, to something I feel I did not do. However, for the purposes of my criminal record and for sentencing, the plea is treated the same as any other guilty plea. _____
initials

3. REPRESENTED BY SELF OR COUNSEL:

Defendant to personally write YES in one of the two boxes:

REPRESENTED BY SELF: I give up my right to an attorney.

REPRESENTED BY AN ATTORNEY: I have discussed my case with my attorney. We discussed the rights I am giving up by my plea, the elements of the offense(s) charged, the possible defenses, and the consequences of my plea.

4. NO OTHER PROMISES – CONDITIONAL PLEA:

A. I have not been induced to enter this plea by any promise or representation of a lesser sentence, probation, reward, immunity, or anything else, except as set forth in paragraph 1(B) above.

initials

B. I understand my sentence is to be determined solely by the Court. If the Court does not agree with any of the promises or representations stated above, I understand I will be allowed to withdraw my guilty plea.

initials

5. CONSEQUENCES OF GUILTY PLEA, NO CONTEST, FINE AND CONFINEMENT

(Bunnell v. Superior Court (1975) 13 Cal.3d 592; see also P.C. 1170(h) [AB 109]):

A. No Contest Plea:

I understand a plea of no contest will have the same effect in this case as a plea of guilty. Also, if the offense is punishable as a felony, it can be used against me in a civil lawsuit. (P.C. §1016.)

initials

B. Prison Sentence:

1. *Straight up – no conditions:*

I understand the maximum term facing me as a result of my plea is _____ years. (*In re Birch* (1973) 10 Cal.3d 314.)

initials

2. *Conditional pleas:*

a. Prison Time Local Jail:

I understand I may be sentenced to serve my term of imprisonment in County Jail. My sentence may still be considered a prior prison term and may be used against me if future law violations occur.

initials

b. No State Prison Term or Local Prison Time Promise:

I understand I will not be sentenced to State Prison or local prison time at the outset and I will be placed on probation. However, if I violate any of the terms and conditions of probation, I can be sentenced to State Prison/County Prison for a maximum sentence of ____years._____

initials

c. State Prison Term/Local Prison Time Lid:

I understand I will receive no more than _____ years in State Prison or local prison time at the outset. If I am granted probation and then violate any terms and/or conditions of probation, I could be sentenced to ____years in State Prison or County Jail as a local prison term.

initials

c. Stipulated Prison Term:

I understand I will be committed to State Prison or County Jail to serve a local prison term for a term of____ years. I will not be considered for probation or a lesser term in prison.

initial

3. *If Non-Probation Offenses – Mandatory State Prison:*

I understand I will not be eligible for probation. I will be sentenced to State Prison as a result of this plea.

(People v. Caban (1983) 148 Cal.App.3d 706.)

initials

C. 1. Parole:

I understand in the event I violate probation and I am committed to State Prison, or following a prison commitment, I will be subject to parole supervision for three years (P.C. §3000, if sentenced pursuant to §1170); or five years (P.C. §3000, if sentenced pursuant to §1168); or seven years (P.C. §3000.1, if sentenced pursuant to 1168 for any offense of first degree). In case of a parole violation, I understand I will be subject to parole for an additional year (if a three-year parole term) or an additional two years (in the case of a five-year parole term). (P.C. §§3000, 3000.1).

initials

2. Mandatory Supervision:

The Court may require me to serve a portion of my sentence under the supervision of the Probation Department, even if I do not agree with the conditions of supervision. If I violate the conditions of supervision, I may be returned to the custody for the remainder of the sentence imposed.

initials

D. Fines, Restitution, Penalty Assessments, Drug and Laboratories Fees (*People v. Clark* (1992) 7 Cal.App.4th 1041.)

(1) *Fine:*

I may be ordered to pay a *FINE* of up to \$10,000 (P.C. §672) and a penalty assessment of 230 % of the fine imposed.

initials

(2) *Restitution Fine For All Felonies Whether Probation Granted or Not:*

The sentencing judge will impose a Restitution Fine of not less than \$240 nor more than \$10,000 in the case of a felony, & not less than \$120 nor more than \$1000 in the case of a misdemeanor. (P.C. §1202.4.)

initials

(3) *Parole Revocation Restitution Fine* (P.C. §1202.45.):

I understand the sentencing judge will order a parole revocation restitution fine in cases including a period of parole in the same amount as the restitution fine above (D (2)). This additional fine is not subject to penalty assessments and shall be suspended unless any parole I may serve is revoked.

Initials

(4) *Administration Screening Fee:*

I understand if I was arrested and released on my own recognizance, I will be ordered to pay an administration screening fee. (Govt.C. §29550(f).)

initials

(5) *Court Security Fee:*

I will be ordered to pay a Court Security Fee in the amount of \$40.00 for each charge for which I am entering a plea for a total of \$_____.

initials

(6) *Restitution to Victim(s):*

I understand the sentencing judge will order restitution to the victim(s) of my crime(s) who incur(s) any loss, as a result of the commission of the crime. (P.C. §1202.4 (f).)

initials

(7) *Criminal Justice Administration Fee:*

I understand I will be ordered to pay a criminal justice administration fee for administrative costs incurred in conjunction with the arrest. (Govt. Code §§ 29550, 29550.1, 29550.2.)

initials

E. *Citizenship (P.C §1016.5):*

I understand if I am not a citizen of the United States, a plea of guilty could result in my being deported from the United States, excluded from admission to the United States or denied naturalization as a United States Citizen.

initials

F. *Parole/Probation:*

I understand if I am currently on probation/parole/mandatory supervision for any other criminal offense, my guilty plea in this case may constitute a violation of that probation/parole/mandatory supervision. Any such probation/parole/mandatory supervision could be revoked as a result of my plea.

initials

6. ADDITIONAL CONSEQUENCES (where applicable):

A. *Sexual Offenses:*

(1) *AIDS Testing:* I understand I will be required to submit to non-confidential AIDS testing as a result of my plea to any one of the following offenses: P.C. §§ 261, 264.1, 261.5, 262, 264.1, 266c, 286, 288a. (P.C. §1202.1.)

initials

(2) If my plea is to an offense defined in P.C. §§ 261, 264.1, 266c, 285, 286, 288, 288a, 288.5 or 289, and the victim of one or more of those offenses was a child under the age of 18 years, the court will prohibit all visitation between me and the child victim. (P.C. §1202.05.)

initials

(3) *Sex offender registration:* I understand, as a further consequence of the plea to the specified offenses in P.C. §290 involving sexual assault, I will be required to register with local law enforcement as a sex offender. (P.C. §290.)

initials

(4) *Additional Fine for Violation of Penal Code §290(c):* I understand, as a further consequence of the plea to the specified offenses in P.C. §290 (c), I will be required to pay a fine of \$300, upon the first Conviction, and a fine of \$500, upon the second and each subsequent conviction. (P.C. §290.3.)

initials

B. Narcotics Offenses:

(1) *Criminal Laboratory Analysis Fee:* I understand I may be required to pay a laboratory analysis fee of \$50.00 for each offense. (H&S C. §11372.5.) I understand this fee is subject to a penalty assessment. (PC. §§1463, et seq. and 1464.)

initials

(2) *Drug program fee:* I understand I may be assessed \$150.00 for each offense. (H&S C. §11372.7.) I understand this fee is subject to a penalty assessment. (PC. §§1463, et seq. and 1464.)

initials

(3) *Narcotics offender registration:* I understand as a consequence of my plea, I will be required to register with local law enforcement as a narcotics offender. (H&S C. §11590.)

initials

(4) *Forfeiture:* I understand my plea may be used as evidence against me with respect to forfeiture of any property, which was or may be seized in connection with the investigation giving rise to the charge(s) against me. (H&S C §11470.)

initials

(5) *License suspension:* I understand as a result of my plea, my driver's license will be suspended by the Department of Motor Vehicles. (Veh.C. §§13352, 13202.5.)

initials

C. Arson Offenses:

(1) *Arson offender registration*: I understand as a consequence of my plea, I will be required to register with local law enforcement as an arson offender. (P.C. §457.1.)

initials

(2) *Arson Fine*: I understand as a consequence of my plea to any felony arson offense, the court may impose a fine not to exceed \$50,000, unless a greater amount is otherwise provided by law. (P.C. §456.) If I committed the offense of arson for pecuniary gain, the court may impose a fine of twice the anticipated or actual gross gain in lieu of the aforementioned fine.

initials

D. DUI Offenses:

(1) *License (DUI cases)*: I understand as a result my guilty plea, my driver's license will be suspended/revoked by the Department of Motor Vehicles. (*Corley v. DMV* (1990) 222 Cal.App.3d 72.)

initials

(2) *Ignition interlock*: I understand I may be required to install an ignition interlock device on any motor vehicle I own/operate. (Veh.C. §§13352, 23575.)

initials

(3) See Addendum A – DUI RELATED OFFENSES
Attached & incorporated herein by reference.

initials

E. Diagnostic Study:

I understand if the judge wants a diagnostic study to assist in deciding my case, the judge may refer my case to a facility of the California Department of Corrections and Rehabilitation, where I can be confined up to 90 days for such study. (P.C. §1203.03.)

initials

F. Three Strikes Legislation; Prior Felony Conviction; Enhancement:

If my plea is to a “violent” (P.C. §667.5(c)) or a “serious” (P.C. §1192.7(c)) felony, a conviction for one more felonies will result in substantially increased punishment and a conviction of two or more “violent” or “serious” felonies will potentially result in a maximum of life in prison. (P.C. §1170.12.)

initials

G. Harvey Waiver (*People v. Harvey* (1979) 25 Cal.3d 754):

I understand though Count(s) _____ will be dismissed, the agreement is that the sentencing judge may nevertheless consider the facts underlying those dismissed counts, including any restitution, in deciding my sentence for the count(s) I am entering pleas to.

initials

H. Firearms Restrictions:

I understand I will be prohibited from owning, purchasing, receiving, or having in my possession, or under my custody or control, a firearm for life if I am a narcotic addict or if I am convicted of a felony and/or specified misdemeanor. Felony and/or specified misdemeanor convictions resulting from certification from the juvenile court for prosecution are included. (P.C. §§ 29800-29825)

initials

I. Other:

7. CIRCUMSTANCES OF THE PLEA

A. I have talked about this case with my attorney and had enough time for that discussion. I have told my attorney all the facts and circumstances known to me about my case.

initials

B. I understand in many cases I have the right to appeal some of the decisions of this court to a higher court, including, but not limited to, the rulings on motions, such as requests for suppression of evidence, and I am waiving my right to appeal as a condition of this plea (*People v. Kelly* (1994) 22 Cal.App.4th 533; *People v. Vargas* (1993) 13 Cal.App.4th 1653; *People v. Castrillon* (1991) 227 Cal.App.3d 718.)

Initials

C. Arbuckle Waiver (*People v. Arbuckle* (1978) 22 Cal.3d 749):

I understand and agree the sentence in this case may be imposed by another judge.

initials

8. PLEA(S)

A. I understand the previously set forth charges, rights, and consequences, and freely and voluntarily plead _____ to _____
(guilty or nolo contest) (list charge(s))

B. If applicable – I freely and voluntarily admit the following enhancement(s), special allegations, prior convictions, and/or probation violations:

C. I am pleading to the above offense(s) because:

(1) I am, in fact, guilty of the offense(s)

initials

OR

(2) For some other reason (*People v. West* (1970) 3 Cal.3d 595.)

initials

DATE: _____

SIGNED: _____
Defendant's Signature Date of Birth

9. ATTORNEY’S STATEMENT

- (1) I am the attorney of record for the Defendant.
- (2) I have gone over the form and addenda, if any, with my client.
- (3) I have explained each of the Defendant’s rights to the Defendant, and answered all of the Defendant’s questions with regard to this plea.
- (4) I have discussed the facts of the Defendant’s case with the Defendant and explained the consequences of this plea, the elements of the offense(s), and the possible defenses.
- (5) I ___concur, ___do not concur, in this plea and the Defendant’s decision to waive constitutional rights.

DATE: _____

SIGNED: _____
Attorney for Defendant

10. INTERPRETER’S STATEMENT (IF APPLICABLE)

I, _____, a qualified interpreter with an affidavit on file with the Court Clerk, and duly sworn, truly translated this form to the defendant in the _____ language. The defendant indicated that (s)he understood the contents of the form, and (s)he then initialed the form.

DATE: _____

SIGNED: _____
Court Interpreter

11. ACKNOWLEDGMENT BY DISTRICT ATTORNEY

The People of the State of California, by and through its attorney, TODD RIEBE, District Attorney, ___concur, ___do not concur, in the defendant’s plea of guilty, as set forth by the defendant in the above declaration.

DATE: _____

SIGNED: _____
Deputy District Attorney

12. COURT'S FINDINGS AND ORDER

- (a) The Court obtained an oral acknowledgment from the defendant that he/she has read and understood the plea form.
- (b) The Court inquired of the defendant and finds the defendant has not recently ingested drugs or alcohol, so as to affect his or her ability to exercise judgment in entering the plea.
- (c) The Court, having reviewed this form and having questioned the defendant concerning the defendant's constitutional rights and the defendant's admission of other conviction(s) and probation violation(s), if any, finds:
 - (i) Defendant understands his or her constitutional rights, the nature of the charges against him or her, and the consequences of his or her plea;
 - (ii) Defendant has expressly, knowingly, understandingly, and intelligently waived his or her constitutional rights;
 - (iii) Defendant's plea(s) and admission(s) are freely and voluntarily made with an understanding of the nature and consequences; and
 - (iv) there is a factual basis for the plea(s)/admission(s).
- (d) The Court accepts the defendant's plea(s) and admission(s) and the defendant is convicted on his or her plea(s).
- (e) The Court orders this form filed.

DATE: _____

SIGNED: _____
Judge of the Superior Court